

REMARKS

The Applicant appreciates the thorough examination of the subject application. By this amendment, changes have been made in the specification and certain claims to overcome the Examiner's rejections and to more concisely claim and describe the present invention. Claims 1-3 and 5-16 remain in the application for reconsideration by the Examiner. Claim 4 has been cancelled.

As requested, the Applicant acknowledges the restriction requirement and the withdrawal of claims 17-20.

Claims 1-8, 10 and 13-16 have been rejected under Section 102(b) as anticipated by Hathaway (5,295,949). Claims 9 and 12 have been rejected under Section 102(b) as anticipated by Lindsay (821,722). Claim 11 has been rejected under Section 102(b) as anticipated by Stephen (5,312,314).

To more concisely describe and claim the invention, claim 1 has been amended as set forth above. In particular, the Applicants claim 1 now includes, "a flexible cylindrical enclosure defining an interior volume and having a substantially circular cross-section, the enclosure for encircling the neck with a first and a second end surfaces of the enclosure extending in a direction toward a front of a wearer's body;" and "the enclosure having a relatively flat configuration in the absence of ballast material and having the cylindrical configuration when the ballast material is present therein, the enclosure further having an indicia representative of a weight of the collar."

The Hathaway patent discloses a band (see Abstract line 13) having pockets for receiving various inserts. The primary intent of the band is to immobilize or limit movement of the neck and is constructed from an elastic material. As amended, claim 1 is patentably distinct from the Hathaway disclosure and therefore is in condition for allowance. Hathaway does not disclose at least the elements of the Applicants' invention including the substantially cylindrical enclosure, the interior volume, the substantially circular cross-section and the indicia representative of the collar's weight.

Although claim 1 has not been rejected over the other cited references, the Applicants note that claim 1 is patentably distinct from Stephen because the reference does not disclose at least the flat condition of the enclosure in the absence of ballast material, nor

the use of different indicia representative of the weight of the collar nor the enclosure extending in a direction toward the front of the wearer's body. Lindsay discloses merely a fluid receptacle and a tube for filling the receptacle. Claim 1 is clearly patentable thereover.

Rejected claims 2-16 depend directly or indirectly from amended claim 1. The Applicants respectfully submit that claims 2, 3 and 5-16 include one or more elements that further distinguish the invention over the art of record. The allowance of these claims is therefore respectfully requested. Certain of these claims have been amended to comport with the amendments to claim 1 from which they depend, as can be seen from the marked-up claims above.

Claim 4 has been cancelled with the Applicants reserving the right to prosecute this claim or a similar claim in a continuing application. Cancellation of the claim is not to be construed as an admission as to the validity of the rejection or the applicability of the cited art.

Although a non-obviousness rejection has not been set forth, the Applicant's suggest that the invention as set forth in the proposed claims would not be obvious with respect to any combination of the references. First, it is not clear how the references can be properly combined as the Lindsay bladder is not related to the Stephan extended bar and neither is related to the Hathaway band. Each has a different function and different elements, and there is no disclosure that suggests or motivates combining their respective disclosures.

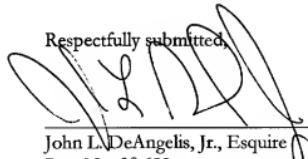
Further, it is respectfully submitted that there is no reference in any of the cited references, combined or standing alone, to several of the features of the Applicant's invention as set forth in the Applicant's various claims and discussed above.

The Applicant has responded to all of the claim rejections in the Office Action and it is believed that the claims 1-3 and 5-16 remaining in the application are now in condition for allowance. In view of the foregoing amendments and discussion, it is respectfully submitted that all of the Examiner's claim rejections have been overcome. It is respectfully requested that the Examiner reconsider these rejections and issue a Notice of Allowance for all the pending claims.

The Applicant hereby petitions for an extension of time of one month under 37 C.F.R. 1.136. An authorization to charge a credit card in the amount of \$60.00 for the extension of time fee, accompanies this amendment.

If a telephone conference will assist in clarifying or expediting this Amendment or the claim changes made herein, Examiner Mullen is invited to contact the undersigned at the telephone number below.

Respectfully submitted,


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